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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,123	06/22/2001	Valentino Campagnolo	Q65114	4998

7590

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EXAMINER

MCANULTY, TIMOTHY P

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/886,123

Applicant(s)

CAMPAGNOLO, VALENTINO

Examiner

Timothy P McAnulty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it contains legal phraseology such as “means” and “said”. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of “this” in line 6 of claim 1 is unclear because it is not understood what “this” is referring to.

The recitation of “this” in line 7 of claim 1 is unclear because it is not understood what “this” is referring to.

It is unclear if the recitation of “its” in line 9 of claim 1 refers to the pedal or the cleat.

Claim 1 is indefinite because it is unclear if the recitation of “with reference to the mounted condition on the bicycle” in lines 17-18 of claim 1, are part of the claimed invention.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,2, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,806,379 to Nagano (Nagano '379).

Nagano '379 discloses in figure 1, a pedal rotatably supported on a pedal shaft 2 of a crank arm 1 of a bicycle having a coupling device to a cleat (not shown) of a shoe comprising front and rear engaging elements 4a and a support plate 4 having a ramp projecting from the support surface (not numbered) only on one side of the support plate wherein the cleat is released from the coupling device by a lateral rotation of the cleat about an axis perpendicular to the axis of the pedal shaft and is lifted by said ramp to facilitate release of the cleat. Nagano '379 does not disclose the ramp on a side of the support plate opposite the side adjacent the crank arm. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the ramp on the side of the support plate adjacent the crank arm, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claim 4, the limitation that the ramp projection is made by drawing on a metal plate fastened by means of screws to the pedal does not further limit the claim. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. See MPEP §2113.

6. Claims 3,5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagano '379 in view of Ogino.

Nagano '379 discloses the basic apparatus as previously cited but does not disclose a projection for preventing a lateral movement of said cleat. However, Ogino teaches in figure 1 teaches a pedal rotatably supported on a pedal shaft and coupled to a crank arm of a bicycle comprising a support plate 5 for quick coupling a cleat (not shown) of a shoe to the pedal wherein said support plate has projection 8 to prevent lateral movement of the cleat in a direction towards the crank arm. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Nagano '379 in view of Ogino to include a projection on a side of the support plate opposite the side having the ramp to prevent a accidental release of the cleat in a lateral direction towards said crank arm so as to improve overall safety of the pedal.

Regarding claim 5, the limitation that the projection is made by drawing on a metal plate fastened by means of screws to the pedal does not further limit the claim. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. See MPEP §2113.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art regarding bicycle pedals in general:

US Patent No. 5,522,282 to Nagano

US Patent No. 4,735,107 to Winkie


US Patent No. 5,257,562 to Nagano


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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P McNulty whose telephone number is 703.308.8684. The examiner can normally be reached on Monday-Friday (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703.308.3668. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.7687 for regular communications and 703.305.7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.


DAVID A. BUCCI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

tpm 
September 24, 2002